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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,104	02/04/2000	Paul M Scopton	1001.1375101	8323

28075 7590 02/20/2004

CROMPTON, SEAGER & TUFTE, LLC  
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MINNEAPOLIS, MN 55403-2420

EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

22

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/498,104

Applicant(s)

SCOPTON, PAUL M

Examiner

Matthew F DeSanto

Art Unit

3763

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): Ressemann et al. with regards to claims 1-5, 7, 10-13, and 15.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the \_\_\_\_\_ application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_
- Claim(s) objected to: \_\_\_\_\_
- Claim(s) rejected: \_\_\_\_\_
- Claim(s) withdrawn from consideration: \_\_\_\_\_
8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: With regards to Sirhan the applicant argues that the guidewire lumen extension is not external and parallel with the shaft. The examiner disagrees because Figure 6 and Figure 15 shows that part of the tubular member is external and parallel with the shaft. The applicant does claim the entire tubular element being external and parallel with the shaft, thus Sirhan still reads on the claims. Figure 6 and 15 also show radially shifting.

With regards to Crittenden et al. not having a guidewire lumen extension being parallel and external to the shaft, the examiner points the applicant to figures 1, 7, 9 and 10. The examiner is interpreting reference number 48 and 38 to make up the components of the guidewire lumen extension, and therefore these figures show a guidewire lumen extension being parallel and external to the shaft. The examiner interprets ports as any opening. There is no special language that the applicant gives port, thus wherever the tubular member ends, the opening distal that point is the proximal guidewire port. Figure 4, shows an injection lumen, a guidewire lumen and an inflation lumen.

With regards to Horzewski et al. not having a catheter with an injection lumen in communication with a guidewire lumen and the tubular member is not sealed to the shaft. The examiner disagrees with applicant because in Figure 1 and in Column 4, lines 13-24 there is mention of openings through the shaft, thus allowing injection of fluid and being in communication with the guidewire, since the guidewire passes through the shaft as shown in Figure 1. With regards to the term fluidly seal the examiner determines that the tubular member would form a seal since the tubular member is secured and sealed to the shaft and fluid would be capable of being transferred from the tubular member to the shaft since that is what is claimed.

Continuation of 10. Other: Please look at patent number 5,413,559, because the examiner believes this patent reads on the claims. .

*M. Sirhan*

2/18/04

*Brian L. Casler*  
**BRIAN L. CASLER**  
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